United Nations CRC/C/OPSC/PER/CO/1

Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by Peru under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of Peru (CRC/C/OPSC/PER/1) at its 2071st meeting (see CRC/C/SR.2071), held on 15 January 2016, and adopted the following concluding observations at its 2104th meeting (see CRC/C/SR.2104), held on 29 January 2016.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPSC/PER/Q/1/Add.1). The Committee appreciates the constructive dialogue held with the high-level State party delegation, but regrets the considerable delay in the submission of the report.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined fourth and fifth periodic reports submitted by the State party under the Convention (CRC/C/PER/CO/4-5) and on the initial report of the State party submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPSC/PER/CO/1), both of which were adopted on 29 January 2016.

II. General observations

Positive aspects

4. The Committee notes with appreciation the State party's ratification of:

(a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in January 2016;

* Adopted by the Committee at its seventy-first session (11-29 January 2016).

(b) The United Nations Convention against Transnational Organized Crime, in January 2002, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, in January 2002.

5. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of:

(a) Act No. 30251 of 30 September 2014, further expanding the definition of the crime of trafficking in persons provided in article 153 of the Criminal Code;

(b) Act No. 30096 of 27 September 2013 on combating cybercrime;

(c) Act No. 28950 of 12 January 2007 on trafficking in persons and smuggling of migrants;

(d) Act No. 28251 of 7 June 2004, inter alia introducing child sex tourism offences into the Criminal Code, and Act No. 29408 of 17 September 2009, the General Act on Tourism, which redefines the offence of child tourism and imposes harsher penalties;

(e) Act No. 27459 of 11 May 2001, introducing the crime of child pornography into the Criminal Code.

6. The Committee also welcomes the following institutional and policy measures:

(a) The National Policy on Trafficking in Persons and Related Forms of Exploitation, in January 2015;

(b) The National Plan of Action for Children and Adolescents 2012-2021, in April 2012, which includes strategic objectives relating to trafficking and sexual exploitation;

(c) The National Plan of Action to Combat Trafficking in Persons 2011-2016, in October 2011;

(d) The creation of the Multisectoral Standing Working Group against Trafficking in Persons, in February 2004.

III. Data

Data collection

7. The Committee welcomes the fact that the State party established in December 2009 an institutional system for registering cases of trafficking in persons and associated offences and for compiling relevant statistics. Nevertheless, it regrets that statistics and data on the offences covered by the Optional Protocol are not comprehensive.

8. **The Committee recommends that the State party intensify its efforts to develop and implement a comprehensive, coordinated and effective system of data collection on all areas covered by the Optional Protocol, in order to ensure effective analysis and monitoring of the situation of children as well as impact assessments of the measures taken. The data should be disaggregated, inter alia by sex, age, nationality and ethnic origin, geographical location and socioeconomic status, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.**

IV. General measures of implementation

Comprehensive policy and strategy

9. The Committee notes that the State party has adopted the National Plan of Action to Combat Trafficking in Persons 2011-2016 and the National Plan of Action for Children and Adolescents 2012-2021; but is concerned at the limited resources allocated for their implementation. The Committee also regrets that a comprehensive strategy that includes all issues covered by the Optional Protocol has not yet been adopted.

10. **With reference to its concluding observations under the Convention (see CRC/C/PER/CO/4-5, paras. 9 and 10), the Committee recommends that the State party adopt a comprehensive strategy that includes all areas under the Optional Protocol. The State party should ensure that such strategy is provided with adequate human, technical and financial resources for its implementation, and is regularly evaluated with a view to identifying deficiencies, for corrective action.**

Coordination and evaluation

11. The Committee notes that the technical secretariats of the Multisectoral Permanent Working Group against Trafficking in Persons and the Permanent Multisectoral Commission for the implementation of the National Plan of Action for Children and Adolescents 2012-2021 are responsible for coordination of activities under the National Plan of Action to Combat Trafficking in Persons 2011-2016. Nevertheless, it is concerned at the lack of information about coordination among these and other institutions and between central and local levels

12. **With reference to its concluding observations under the Convention (see CRC/C/PER/CO/4-5, paras. 11 and 12), the Committee recommends that the State party ensure that the Permanent Multisectoral Commission and the Multisectoral Permanent Working Group have sufficient authority and adequate human, financial and technical resources to effectively coordinate the implementation of the Optional Protocol across different sectors and at the national, regional and local levels.**

Dissemination and awareness-raising

13. The Committee notes that the National Plan of Action for Children and Adolescents 2012-2021, among its implementing strategies, includes awareness-raising campaigns to prevent sexual exploitation. It also notes the information provided on some initiatives undertaken by the State party to raise awareness about sexual exploitation and trafficking in persons. However, the Committee is concerned that the dissemination of, and awareness-raising on, the provisions of the Optional Protocol to the general public and in particular to children, is not comprehensive and systematic.

14. **The Committee recommends that the State party strengthen its efforts to make all the provisions of the Optional Protocol widely known to the public. In this regard, the State party should:**

(a) **Develop and implement specific, comprehensive and long-term awareness-raising programmes with a particular focus on preventive measures, assistance programmes and reporting mechanisms for all offences relating to the Optional Protocol at the national, regional and local levels, including in partnership with the media;**

(b) Ensure effective monitoring and evaluation of the programmes adopted, with a view to identifying possible deficiencies for corrective action;

(c) Ensure that the issues relating to the provisions of the Optional Protocol are included into school curricula at all levels of the educational system, using appropriate materials created specifically for children;

(d) Address the needs of children who are particularly at risk of becoming victims, and of their parents, and encourage the participation of the community, including child victims, in the development of the programmes.

Training

15. The Committee notes the information provided on different training activities organized by the State party regarding the trafficking and sexual exploitation of children, which are targeted at a variety of stakeholders. It is, however, concerned that the measures taken are not systematic and do not adequately cover all crimes under the Optional Protocol. It is also concerned that the State party has not assessed the impact of such training activities on tackling the issues under the Optional Protocol.

16. **The Committee recommends that the State party extend and further strengthen its training activities. In this regard, the State party should ensure that they are systematic and multidisciplinary, cover all areas under the Optional Protocol, and are provided to all relevant professionals working with and for children, including judges, prosecutors, social workers, and law enforcement and immigration officials at all levels. It also recommends that the State party conduct regular assessments of its training activities to ensure that the knowledge and skills acquired are translated effectively into practice.**

Allocation of resources

17. While noting the information provided on the resources allocated for the strategic objectives related to combating sexual exploitation, trafficking and sexual violence, in the National Plan of Action for Children and Adolescents 2012-2021 and the National Plan of Action to Combat Trafficking in Persons 2011-2016, the Committee is concerned at the lack of a specific budget covering activities in all areas under the Optional Protocol.

18. **The Committee recommends that the State party establish specific and clear budgetary allocations for the implementation of the Optional Protocol. The State party should earmark all human, technical and financial resources allocated for programmes designed to implement its provisions, in particular those relating to criminal investigations, legal assistance, compensation, and the physical and psychological recovery of child victims of crimes relating to the Optional Protocol.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1 and 2))

Measures adopted to prevent offences prohibited under the Protocol

19. The Committee notes that the State party has introduced measures to prevent sexual exploitation and trafficking of children, including the establishment of the Multisectoral Permanent Working Group against Trafficking in Persons. It is, however, concerned that

measures to prevent the offences covered by the Optional Protocol are insufficient, as evidenced, inter alia, by the widespread sexual exploitation of girls, in particular in mining areas, the increasing prevalence of child prostitution and the existence of a large number of organized networks for trafficking in organs. In particular, it is concerned that:

(a) Efforts to properly identify and eliminate the root causes and risks of offences under the Protocol, including poverty, the prevalence of discriminatory practices and attitudes, and violence, are limited;

(b) There are no mechanisms in place to identify and monitor children who are at particular risk of becoming victims of offences under the Optional Protocol, such as children in street situations, indigenous children, unaccompanied asylum-seeking, refugee and migrant children, and children from rural and/or remote areas.

20. **The Committee recommends that the State party expand and strengthen its preventive measures to address all areas covered by the Optional Protocol. The State party should also:**

(a) **Ensure effective enforcement of existing laws and administrative measures, social policies and programmes aimed at the prevention of offences under the Optional Protocol, including through the allocation of sufficient resources;**

(b) **Carry out comprehensive studies assessing the root causes, risk factors and scale of crimes related to the sale of children, child prostitution, including child sex tourism, and child pornography in the State party, with a view to developing and adopting effective and targeted legislative, policy and administrative measures for the prevention of offences prohibited under the Optional Protocol;**

(c) **Ensure effective monitoring and evaluation of the measures adopted with a view to identifying possible deficiencies, for corrective action;**

(d) **Establish effective mechanisms to identify and monitor children at risk of becoming victims of offences under the Optional Protocol and establish special prevention programmes targeting those children and their families.**

Child sex tourism

21. While welcoming the various measures taken by the State party to address child sex tourism, including the introduction of the criminal offence of child sex tourism, and awareness-raising activities, the Committee is concerned that child sex tourism is increasing, as acknowledged by the State party in its periodic report (see CRC/C/OPSC/PER/1, para. 58).

22. **The Committee recommends that the State party continue enhancing its measures to prevent and eliminate child sex tourism. In particular, the State party should ensure effective implementation of its regulatory framework. The Committee also recommends that the State party strengthen advocacy with the tourism industry on the harmful effects of child sex tourism, widely disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and continue to encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2 and 3) and 5-7)

Existing criminal or penal laws and regulations

23. The Committee welcomes the amendments made to the Criminal Code in order to better reflect the provisions of the Optional Protocol. It is, however, concerned that the offence of sale of children has not been specifically and comprehensively defined in the Criminal Code.

24. **The Committee recommends that the State party, in accordance with articles 2 (a) and 3 (1) (a) of the Optional Protocol, amend its Criminal Code with a view to incorporating a comprehensive definition of, and explicitly criminalizing, the sale of children — a concept that is similar, but not identical, to trafficking in persons.**

Impunity

25. The Committee expresses deep concern that investigations and prosecutions of perpetrators of offences under the Optional Protocol are limited, a situation that fosters impunity. It is also concerned at reports of complicity between the authorities and persons involved in offences under the Optional Protocol.

26. **The Committee urges the State party to:**

(a) **Significantly increase its efforts to investigate effectively, prosecute and punish adequately perpetrators of all offences covered under the Optional Protocol;**

(b) **Strengthen the capacity of all law enforcement authorities and the judiciary to detect and prosecute the offences under the Optional Protocol, through specialized training;**

(c) **Fight corruption and impunity at all levels of the criminal justice system;**

(d) **Provide specific information on investigations, prosecutions and punishments of perpetrators of all offences under the Optional Protocol in its next periodic report.**

Liability of legal persons

27. The Committee notes with concern that legal persons are not liable under the State party's legislation for acts or omissions related to the offences covered under the Optional Protocol.

28. **The Committee recommends that the State party take advantage of the current revision process of the Criminal Code, which envisages a new article 130 on the responsibility of legal persons for criminal acts, to ensure that legal persons, including corporations, can be held liable for all offences related to the Optional Protocol in conformity with article 3 (4) of the Optional Protocol.**

Extraterritorial jurisdiction and extradition

29. The Committee welcomes the fact that domestic legislation enables the State party to establish and exercise extraterritorial jurisdiction over crimes under the Optional Protocol and that the Optional Protocol can be invoked as a legal basis for extradition. Nevertheless, it regrets that extraterritorial jurisdiction over, and extradition for, offences prohibited under the Optional Protocol are subject to the criterion of double criminality.

30. **The Committee recommends that the State party take the necessary measures to ensure that the requirement of double criminality for extradition and extraterritorial jurisdiction is repealed.**

VII. Protection of the rights of child victims (arts. 8 and 9 (3 and 4))

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

31. The Committee notes the measures taken to protect the rights and interests of child victims of offences prohibited under the Optional Protocol, such as the establishment of 20 single interview rooms. Nevertheless, it is concerned that:

(a) During investigations and legal proceedings, children are subjected to aggressive and frequent questioning, the privacy of child victims of offences under the Optional Protocol is not always adequately protected, and child victims are sometimes treated as offenders;

(b) Despite the establishment of a legal defence service for victims, child victims are not sufficiently provided with legal assistance or with the support of child psychologists and social workers during the criminal justice process, partly owing to lack of sufficient capacity;

(c) Information on access to complaint mechanisms and on damages from those legally responsible is lacking.

32. **In the light of article 9 (3 and 4) of the Optional Protocol, the Committee recommends that the State party ensure that:**

(a) **Child-sensitive procedures are established and followed and the best interests of the child are given primary consideration in the treatment afforded by the criminal justice system to child victims and witnesses, taking fully into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime;**

(b) **Child victims or witnesses of offences under the Optional Protocol are not revictimized or treated as offenders in practice;**

(c) **All relevant professionals receive training on child-sensitive interaction with child victims and witnesses at all stages of the criminal and judicial process;**

(d) **All child victims are provided with free or subsidized legal aid and the support of child psychologists and social workers, including through the provision of adequate human, technical and financial resources;**

(e) **All child victims have access to child- and gender-sensitive complaint mechanisms as well as to adequate procedures for seeking, without discrimination, compensation and redress.**

Recovery and reintegration of victims

33. The Committee is concerned at the limited availability of adequate services, including shelters, for the physical and psychosocial recovery and social reintegration of child victims of the offences covered in the Optional Protocol.

34. **The Committee recommends that the State party ensure that child victims of the offences covered in the Optional Protocol are provided with appropriate assistance, including for their physical and psychological recovery and full social reintegration, and with effective access to shelters and specialized care centres in accordance with the type of crime, throughout the State party. The State party should also regularly monitor and evaluate, as well as allocate adequate human, technical and financial resources for, the effective implementation of programmes for the care, protection, and physical and psychological recovery, and the reintegration, of child victims.**

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

35. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.**

IX. Follow-up and dissemination

Follow-up

36. **The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the relevant government ministries, the Parliament, and national and local authorities, for appropriate consideration and further action.**

Dissemination of concluding observations

37. **The Committee recommends that the report and written replies submitted by the State party and the present concluding observations be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

X. Next report

38. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report, to be submitted in accordance with article 44 of the Convention.**